

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DAMON NEAL DUNBAR, JR., )  
                                  )  
Plaintiff,                   )  
                                  )  
-vs-                           )                                   Case No. CIV-20-0595-F  
                                  )  
RAY HAMMANS, et al.,       )  
                                  )  
Defendants.                 )

**ORDER**

Plaintiff Damon Neal Dunbar, Jr., a prisoner appearing *pro se* whose pleadings are liberally construed, filed this action under 42 U.S.C. § 1983 alleging violations of his constitutional rights.

The magistrate judge to whom this action was referred submitted a Report and Recommendation to the undersigned on August 20, 2020. Doc. no. 9 (the Report). The Report recommends this action be dismissed without prejudice for failing to pay the initial partial filing fee of \$32.60 by August 4, 2020, as directed by the magistrate judge in his order of July 17, 2020 (doc. no. 8). The July 17, 2020 order further provided that following the payment of the initial partial filing fee, Mr. Dunbar was required to make monthly payments, calculated in the manner set out in that order, until Mr. Dunbar had paid the total filing fee of \$350.00. The final paragraph of the July 17, 2020 order stated as follows: “This Court will enter an order directing the agency having custody of Plaintiff to collect and forward such monthly payments to the Clerk of the Court until the filing fee is paid in full,” citing 28 U.S.C. §1915(b)(2). Doc. no. 8, p. 2.

On August 26, 2020, the court received a “to whom it may concern” letter from Mr. Dunbar. Doc. no. 10. The letter is construed as a request for additional time within which to submit the initial partial payment. In support of that request, the letter indicates that Mr. Dunbar is in the Arapaho County Jail and that the jail administrator would not permit Mr. Dunbar to pay the fee out of his jail account. The letter indicates that when the jail administrator read the magistrate judge’s July 17, 2020 order, the administrator “thought the court was going to issue an order for payment.” *Id.* The letter suggests that the jail administrator did not remit the initial partial payment because the administrator expected a further order to be issued to the jail but that no such order was issued. Based on these considerations, Mr. Dunbar requests a “deferred payment.” *Id.*

Presuming that the jail administrator interpreted the magistrate’s order in the way Mr. Dunbar’s letter suggests, that interpretation was a reasonable one in light of the statement in the magistrate judge’s order that the court “will enter” an order directing the custodial agency to collect and forward monthly payments to the court. Accordingly, Mr. Dunbar’s request for additional time within which to remit the initial partial payment of \$32.60 is **GRANTED**. The court hereby **EXTENDS** the time by which the initial partial payment of \$36.20 must be paid to the court to November 3, 2020. In all other respects, the Report is **ACCEPTED, ADOPTED** and **AFFIRMED**.

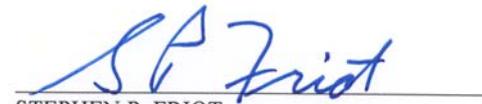
In addition, the court **ADVISES** Mr. Dunbar and the custodial agency (Arapaho-CCJ) that the magistrate judge’s order of July 17, 2020 constitutes, and should in all respects be treated as, an order directing the custodial agency to immediately remit to this court the initial partial payment of \$32.60 and to remit subsequent monthly payments, in the manner stated in that order.

The clerk is **DIRECTED** to provide Mr. Dunbar with three copies of this order and with three copies of the magistrate judge’s July 17, 2020 order. Mr.

Dunbar may distribute these copies to the custodian(s) of his institutional account(s). Upon receipt of these orders, the court is confident the authorities in charge of Mr. Dunbar's institutional account(s) will comply with the payment procedures set out by the magistrate judge in the July 17, 2020 order.

Finally, Mr. Dunbar is **ADVISED** that if the initial partial payment of the filing fee (\$32.60) is not received by the court on or before November 3, 2020, it is the court's current intention, subject to any further considerations that might then apply, to dismiss this action, without prejudice, for failure to pay the initial filing fee, as recommended in the Report.

IT IS SO ORDERED this 24<sup>th</sup> day of September, 2020.



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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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